APPENDIX

UNITED STATES PUBLIC LAWS
95th Congress—Second Session
Convening January 19, 1978

PL 95-234 (HR 7442)
February 21, 1978

COMMUNICATIONS ACT AMENDMENTS OF 1978

An Act to amend the Communications Act of 1934 to provide for the regulation of utility pole attachments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Communications Act Amendment of 1978".

* * *

Sec. 6. Title II of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"REGULATIONS OF POLE ATTACHMENTS

"Sec. 224. (a) As used in this section:

"(1) The term 'utility' means any person whose rates or charges are regulated by the Federal Government or a State and who owns or controls poles, ducts, conduits, or right-of-way used, in whole or in part, for wire communication. Such term does not include any railroad, any person who is cooperatively organized, or any person owned by the Federal Government any State.

"(2) The term 'Federal Government' means the Government of the United States or any agency or instrumentality thereof.

"(3) The term ' State' means any State, territory, or possession of the United States, the District of Columbia, or any political subdivision, agency, or instrumentality thereof.

"(4) The term 'pole attachment' means any attachment by a cable television system to a pole, duct, conduit, or right-of-way owned or controlled by a utility.

"(b)(1) Subject to the provisions of subsection (c) of this section, the Commission shall regulate the rates, terms, and conditions for pole attachments to provide that such rates, terms, and conditions are just and reasonable, and shall adopt procedures necessary and appropriate to hear and resolve complaints concerning such rates, terms, and conditions. For purposes of enforcing any determinations resulting from complaint procedures established pursuant to this subsection, the Commission shall take such action as it deems appropriate and necessary, including issuing cease and desist orders, as authorized by section 312(b) of title III of the Communications Act of 1934, as amended.

"(2) Within 180 days from the date of enactment of this section the Commission shall prescribe by rule regulations to carry out the provisions of this section.

"(c)(1) Nothing in this section shall be construed to apply to, or to give the Commission jurisdiction with respect to rates, terms, and conditions for pole attachments in any case where such matters are regulated by a State.

"(2) Each State which regulates the rates, terms, and conditions for pole attachments shall certify to the Commission that—

"(A) it regulates such rates, terms, and conditions; and

"(B) in so regulating such rates, terms and conditions, the State has the authority to consider and

does consider the interests of the subscribers of cable television services, as well as the interests of the consumers of the utility services.

"(d)(1) For purposes of subsection (b) of this section, a rate is just and reasonable if it assures a utility the recovery of not less than the additional costs of providing pole attachments, nor more than an amount determined by multiplying the percentage of the total usable space, or the percentage of the total duct or conduit capacity, which is occupied by the pole attachment by the sum of the operating expenses and actual capital costs of the utility attributable to the entire pole, duct, conduct, or right-of-way.

"(2) As used in this subsection, the term 'usable space' means the space above the minimum grade level which can be used for the attachment of wires, cables, and associated equipment.

"(e) Upon the expiration of the 5-year period that begins on the date of enactment of this Act the provisions of subsection (d) of this section shall cease to have any affect.".

Sec. 7. The amendments made by this Act shall take effect on the thirtieth day after the date of enactment of this Act; except that the provisions of sections 503(b) and 510 of the Communications Act of 1934, as in effect on such date of enactment, shall continue to constitute the applicable law with the respect to any act or omission which occurs prior to such thirtieth day.

Approved February 21, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-721 and 95-721, pt. 2 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 95-580 accompanying S. 1547 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 123 (1977): Oct. 25, considered and passed House.

Vol. 124 (1978): Jan. 31, considered and passed Senate, amended, in lieu of S. 1547.

Feb. 1, House concurred in Senate amendment, with amendments.

Feb. 6, Senate disagreed to House amendments Nos. 1, 2, and 3; concurred in amendment No. 4, with an amendment. House receded from amendments Nos. 1, 2, and 3; concurred in Senate amendment of No. 4.